

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF TREASURY

DOUGLAS B. ROBERTS, State Treasurer

STATE TAX COMMISSION

4th Floor Treasury Building

Lansing, Michigan 48922 - Telephone (517) 373-0500

COMMISSION MEMBERS

ROLAND C. ANDERSEN, Acting Chair
LESLEY F. HOLT
LEROY J. NELSON

DATE: July 7, 1994

TO: Assessors, Equalization Directors,
Supervisors and County Treasurers

FROM: Roland C. Andersen, Acting Chair
State Tax Commission

RE: CONTENTS OF THIS MAILING

This mailing includes the following two items:

- 1) State Tax Commission Bulletin No. 12 of 1994 dealing with the provisions of Public Act 237 of 1994 which affect the July and December Boards of Review and the 1994 50% Homestead Exemption. This bulletin includes a copy of PA 237 of 1994.
- 2) Volume 3 of Questions and Answers about the "homestead" and "qualified agricultural property" exemptions. Volume 3 replaces Volumes 1 and 2.

The Michigan Department of Treasury will soon be mailing out copies of two forms relating to homestead exemptions. They are the Homestead Exemption Update (T-1058) and the Request to Rescind Homestead Exemption (T-1067).

RCA:DWP/ej

Enclosures

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Bulletin No. 12
July 7, 1994
July and December
Boards of Review
and 50% Homestead
Exemptions

DATE: July 7, 1994

TO: Assessors, Equalization Directors, Supervisors
Boards of Review & County Treasurers

FROM: State Tax Commission

RE: **ACT NO. 237 OF THE PUBLIC ACTS OF 1994**

Attached is a copy of Act No. 237 of the Public Acts of 1994 which was signed by the Governor on June 30, 1994 with immediate effect. This act covers many aspects of the homestead exemption and the qualified agricultural property exemption from the 18 mills of local school operating taxes. This bulletin addresses those aspects of the act which deal with the provisions affecting the operation of the July and December Boards of Review and those which affect the administration of the 50% homestead exemption created by the act for persons who purchase and occupy a home after May 1, 1994 and before October 3, 1993 (see page 6). Those provisions are underlined on the attached copy of the act. Future bulletins will cover additional aspects of this act which include the filing and appeal procedures for the "homestead" and "qualified agricultural property" exemptions, definitions of terms used with those exemptions, changes to section 24c affecting the notice of assessment increase and the addition of section 43c regarding interest earned on the collections of the state education tax.

Assessors are asked to make a copy of this bulletin available to their local treasurers.

I. JULY AND DECEMBER BOARDS OF REVIEW

Act 237 of 1994 grants limited authority to July and December Boards of Review to grant exemptions from the 18 mills of local school operating taxes. There are two situations for homestead properties and three situations for qualified agricultural property for which Act 237 authorizes the board of review to act.

Homestead Property

- 1) For 1994 only, Section 7cc(13) of this act authorizes the July Board of Review, regardless of whether there is a summer levy of school operating taxes, or the December Board of Review to grant a homestead exemption to property which was eligible for the exemption in 1994 as of May 1 but for which a homestead affidavit was not received by the local tax collecting unit. "Not received" could also include other situations such as where an owner files an exemption affidavit but it is misplaced by the assessor and is not processed.

The July or December Board of Review in 1994 may also act in the following two situations but only if an owner requests:

- a) The board may cancel an exemption at the owner's request. The board should place the owner's name and parcel identification number on a blank affidavit and write "Withdrawn at Owner's Request" on the top of the form.
- b) For homesteads only which are partially exempt because part of the residence is rented or leased, the board may increase the exemption to a full exemption if the rented portion is used as a residence by the occupant and if the portion that is rented or leased is less than 50% of the total square footage of living space in the residence. For an owner occupying one side of a duplex this applies only to the unit occupied by the owner and not to the rental unit. This is as provided in section 7dd(a) of Act 237. The board should note on top of the affidavit that it is a "Correction Affidavit" and state the reason for the correction.

Affidavits for situations a and b above should be separately batched as type d affidavits on Treasury batching form M-1129.

The State Tax Commission recommends that all assessing units hold a 1994 July Board of Review, even if there is no summer levy of local school operating taxes, so that taxpayers may claim an exemption from the 18 mills of local school operating taxes prior to the December billing.

- 2) Section 7cc(13) of this act also authorizes the July Board of Review, where there is a summer levy of school operating taxes or the December Board of Review, if there is not a summer levy of school operating taxes, to grant the homestead exemption to property which was owned and occupied as a homestead on May 1 where its owner claims to have filed an exemption affidavit by May 1 of that year but did not receive the exemption on the tax roll. This provision will have limited applicability in 1994 since item #1 on the previous page will cover most of the situations the board will encounter.

Owners who qualify under one of these two situations are required by the act to file a homestead exemption affidavit with the July or December Board of Review. These affidavits must then be batched and sent to the Michigan Department of Treasury. It should be noted that homestead exemptions which may be agricultural or residential properties are completely separate from the "qualified agricultural property" exemptions. Any affidavits which are turned in to assessors regarding the qualified agricultural (non-homestead) exemptions are not to be forwarded to the Department of Treasury but are to be retained by the local unit of government.

The July Board of Review does not have the authority to grant homestead exemptions to properties which did not qualify on May 1, 1994 for the exemption even though they may have qualified at an earlier or later date than May 1, 1994 with the exception of item (1)(b) mentioned above. There are

special provisions for the December Board of Review as regards the 50% exemption which will be addressed later in this bulletin.

The July or December Board of Review does not have the authority to go back and change the homestead exemptions for property owners who had filed affidavits prior to the filing deadline of May 1, 1994 with the exceptions of items a and b mentioned above.

The July or December Board of Review does have the authority to deny an exemption claim from an owner who appears at that Board of Review to request the exemption if the board has reason to believe that the property was not owned and occupied as a homestead on May 1, 1994.

An assessor who disagrees with the action of the Board of Review may appeal that decision. The procedure is discussed later in this bulletin.

Property owners who are unable to attend the July or December Board of Review may authorize someone to appear in their behalf or, in 1994 only, may appeal to obtain the homestead exemption by letter. In either case they must fill out a homestead affidavit for presentation to the board. For 1994, the State Tax Commission recommends that affidavits which were filed after the May 1 deadline and are presently in the assessor's possession should be treated as letter appeals to the July Board of Review provided the affidavits claim that the properties were homesteads as of May 1, 1994. If the assessor intends to recommend that a particular affidavit not be accepted by the board of review as filed, the assessor is advised to notify the owner of his/her intention so that the owner can appear at the board of review session.

Qualified Agricultural Property

The following comments do not pertain to homestead exemptions on agricultural property, only to those exemptions for qualified agricultural property authorized by section 7ee of 1994 PA 237.

These exemption claims usually involve property not classified by the assessor as agricultural but which were devoted primarily to an agricultural use as defined in Section 2 of the Farmland and Open Space Preservation Act. (See the memo from the State Tax Commission sent to all assessing officers dated May 19, 1994 regarding "Qualified Agricultural Property".)

Property which was classified agricultural was not required to file an affidavit in 1994 though the assessor may have requested a filing in certain instances. Property which was not classified agricultural but whose acreage was more than 50% devoted to agricultural use was required to file the farmland affidavit by June 1, 1994 (or May 1 starting in 1995).

- 1) For 1994 only, Section 7ee(6) of the act authorizes the July Board of Review, regardless of whether there is a summer levy, or the December Board of Review to grant an exemption for qualified agricultural property to property which qualified for the exemption on June 1, 1994 but for which a farmland affidavit was not received by the local tax collecting unit. "Not received" could also include other situations such as where an owner files a farmland exemption affidavit but it is misplaced by the assessor and is not processed.

- 2) Section 7ee(6) also authorizes the July Board of Review where there is a summer levy, or the December Board of Review, where there is no summer levy, to grant the exemption to property for which a farmland affidavit was filed by the owner and the exemption was denied by the assessor but the board of review rules that it does qualify for the exemption because of facts that have been brought to the attention of the board. Properties in this category would usually be properties which are classed other than agricultural and are devoted primarily to an agricultural use as defined by Section 2 of PA 116 of 1974.

IF THE ASSESSOR HAS DENIED AN EXEMPTION TO AN OWNER WHO HAS FILED A FARMLAND AFFIDAVIT, THE ASSESSOR MUST NOTIFY THE OWNER OF THE DENIAL AND STATE THE REASON FOR DENIAL AND INFORM THE OWNER OF HIS/HER RIGHTS TO APPEAL TO THE JULY OR DECEMBER BOARD OF REVIEW. STARTING IN 1995, APPEALS UNDER THIS SECTION CAN ALSO BE MADE TO THE MARCH BOARD OF REVIEW.

- 3) Section 7ee(6) of this act also authorizes the July Board of Review where there is a summer levy or, the December Board of Review, where there is no summer levy, to grant the exemption for qualified agricultural property to property which was qualified agricultural property on May 1 where its owner claims to have filed an exemption affidavit by May 1 but did not receive the exemption. This provision will have limited applicability in 1994 since items #1 and #2 above will cover most of the situations the board will encounter.

Owners who believe they qualify under one of the three situations described above are required by this act to file the farmland exemption affidavit with the board of review to obtain an exemption from the board. These affidavits are to be retained by the assessing unit and shall NOT be forwarded to the Michigan Department of Treasury.

Property owners who are unable to attend the July or December Board of Review may authorize someone to appear in their behalf or, in 1994 only, may appeal to obtain the exemption by letter. In either case they must fill out an exemption affidavit for presentation to the board.

For 1994, the State Tax Commission recommends that farmland affidavits which were filed after the June 1 deadline and are presently in the assessor's possession should be treated as appeals to the July Board of Review provided they are for properties which were "qualified agricultural properties" on June 1, 1994. If the assessor denies any of these exemption requests or if the assessor intends to recommend that a particular affidavit not be accepted by the board of review as filed, the owner should be notified by the assessor so that the owner may appeal at the July or December Board of Review.

REPORTING THE RESULTS OF THE JULY OR DECEMBER BOARD OF REVIEW

Section 53b(1) of Act 237 of 1994 requires that the Board of Review file an affidavit within 30 days with the proper officials when an appeal of the exemption for homestead property or qualified agricultural property results in a determination that an overpayment has been made. The officials to be notified are the State Tax Commission, the county equalization department and all taxing units affected by the change, e.g., the local unit treasurer, the

county treasurer, the school board treasurer, etc. This is a continuation of the traditional reporting requirements which have long existed for the July and December Boards of Review.

The homestead exemption affidavits should be forwarded to the Department of Treasury and a copy may be kept by the assessor. The exemptions granted by the July or December Board of Review will then be valid through 1998 unless a change in use or a transfer occurs.

The current tax collecting treasurer shall refund any overpayment to the taxpayer within 30 days of receipt of the affidavit from the Board of Review. If additional taxes are due, payment is due within 30 days of receipt of the corrected billing without interest or penalties or the statutory payment date, whichever date is later.

APPEALING DECISIONS OF THE JULY OR DECEMBER BOARD OF REVIEW

Section 53b(4) and (5) provide for separate appeal procedures depending on whether the exemption granted or denied by the July or December Board of Review is for "homestead" or for "qualified agricultural property."

"Homestead" Exemption

- 1) If a homestead exemption is granted by the Board of Review, the assessor of the local tax collecting unit may follow the procedures found in section 7cc(6) through (8) of the act.

In 1994, those procedures call for the assessor to send a recommendation for denial along with the affidavit to the Michigan Department of Treasury when the assessor believes that the property for which an exemption is claimed is not the homestead of the owner. These recommendations should be sent within 30 days after the July or December Board of Review.

The Department of Treasury shall then determine if the property is the homestead of the owner claiming the exemption. The owner may then appeal the adverse decision of the Department of Treasury to the Department of Treasury for an informal conference. The final decision of the Department of Treasury may then be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal within 35 days of that decision by either the owner or an assessor who has forwarded a recommendation for denial to the Department of Treasury under section 7cc(6).

- 2) If a homestead exemption is not granted by the Board of Review, an owner may appeal that decision to the Department of Treasury as provided in section 7cc(7) of this act. This is the same procedure involving the Department of Treasury and the Michigan Tax Tribunal that is discussed in paragraph #1 above.

"Qualified Agricultural Property"

An owner or assessor may appeal a decision by the Board of Review regarding an exemption for "qualified agricultural property" directly to

the Residential and Small Claims Division of the Michigan Tax Tribunal as provided for in section 53b(5).

II. 50% HOMESTEAD EXEMPTION FOR OWNERS ACQUIRING A HOMESTEAD BETWEEN MAY 1, 1994 AND OCTOBER 1, 1994

Section 7cc(14) of Act 237 of 1994 provides for a 50% homestead exemption in 1994 only to owners acquiring and occupying a homestead after the 1994 filing deadline of May 1, 1994 but on or before October 3, 1994. This provision does not apply to the exemption for qualified agricultural property. The act requires that this 50% homestead exemption be processed on the December Tax Roll. The act gives a deadline of October 1, 1994 but this is extended by authority of MCL 8.6 to October 3, 1994 since October 1 and 2 of 1994 are a Saturday and a Sunday. An owner must file an exemption affidavit with the assessor by October 3, 1994 or have it postmarked by October 3, 1994 in order to qualify. The assessor must accept the form as filed but may recommend denial to the Department of Treasury as outlined in section 7cc(6). **The 50% homestead exemption is processed by the assessor and does not require action by the July or December Board of Review unless there is no levy of school operating tax on the December bill as is explained later in this bulletin.**

The affidavits for the 50% exemption must be kept separate by the assessor because they receive a 50% exemption for 1994, not the full exemption. It is recommended that the assessor write 50% on the top of the form. These properties will then receive a full exemption for 1995 through 1998 provided they are not transferred or the use does not change. The 50% affidavits must be sent to the Department of Treasury with a copy to the local unit and county treasurer within 30 days after the December Board of Review. The assessor may wish to keep the affidavits until after the December Board of Review because the December Board of Review may be involved in processing these claims as explained later.

This 50% exemption does not apply unless the 1994 assessment of the property is based on the valuation of a homestead or a portion of a structure that has become a homestead. Therefore, a home which was built in 1994 but was assessed as a vacant lot as of December 31, 1993 for the 1994 assessment may not receive this exemption.

The amount of the 50% exemption is affected by whether there is a supplemental (hold harmless) millage levied in the school district involved since the supplemental millage is levied against homestead property only (up to the first 18 mills) and in effect reduces the amount of the exemption.

Where there is no supplemental (hold harmless) millage, the exemption is from 50% of 18 mills which equals 9 mills.

Where there is a supplemental millage, the normal 18-mill exemption is reduced by the supplemental millage levied against homestead property.

Example

18 mills of local school operating taxes levied against non-homesteads only

8 mills of supplemental (hold harmless) mills levied against homesteads only

(18 mills - 8 mills) x 50% = 5 mills from which the homeowner is exempt.

On a house with a \$100,000 SEV¹, this is a \$500 reduction on the homeowner's taxes.

This 50% exemption will be processed on the December tax bill as required by the act. If there is not a December levy for local school operating millage, an owner may appear in person or by mail before the December Board of Review to obtain a rebate as provided for in section 53b(1).

The State Tax Commission recommends that the local unit treasurer note the adjustment in the summer and winter tax roll. The summer roll should indicate a 50% exemption was granted on the winter roll. The winter roll should show the adjustment or refund as applicable. The refunding check number should be posted on the winter tax bill.

¹ The Homestead Tax Base will be less than the total SEV of the Property when property includes non-homestead uses which do not qualify for exemption.

Act No. 237
Public Acts of 1994
Approved by the Governor
June 30, 1994
Filed with the Secretary of State
June 30, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps. Freeman, Palamara, Berman, Bankes, Leland, Anthony and Joe Young, Jr.

Reps. Agee, Allen, Alley, Baade, Bandstra, Bender, Bobier, Bodem, Brackenridge, Bryant, Bullard, Byrum, Ciaramitaro, Crissman, Cropsey, Curtis, DeLange, DeMars, Dobb, Dobronski, Dolan, Fitzgerald, Gagliardi, Gernaat, Gilmer, Gire, Gnodtke, Goschka, Gubow, Hammerstrom, Harder, Horton, Jamian, Jaye, Jersevic, Johnson, Kaza, Kilpatrick, Kukuk, LeTarte, Llewellyn, London, Lowe, Martin, Mathieu, McBryde, McManus, McNutt, Middaugh, Munsell, Murphy, Nye, Olshove, Owen, Oxender, Pitoniak, Porreca, Profit, Randall, Rhead, Rivers, Rocca, Saunders, Schroer, Scott, Shugars, Sikkema, Stallworth, Stille, Voorhees, Vorva, Walberg, Wallace, Weeks, Whyman, Yokich and Richard A. Young named co-sponsors

ENROLLED HOUSE BILL No. 5345

AN ACT to amend sections 24c and 53b of Act No. 206 of the Public Acts of 1893, entitled as amended "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," section 24c as amended by Act No. 539 of the Public Acts of 1982 and section 53b as amended by Act No. 14 of the Public Acts of 1985, being sections 211.24c and 211.53b of the Michigan Compiled Laws; and to add sections 7cc, 7dd, 7ee, and 43c.

The People of the State of Michigan enact:

Section 1. Sections 24c and 53b of Act No. 206 of the Public Acts of 1893, section 24c as amended by Act No. 539 of the Public Acts of 1982 and section 53b as amended by Act No. 14 of the Public Acts of 1985, being sections 211.24c and 211.53b of the Michigan Compiled Laws, are amended and sections 7cc, 7dd, 7ee, and 43c are added to read as follows:

Sec. 7cc. (1) A homestead is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, if that owner claims an exemption as provided in this subsection. Notwithstanding the tax day provided in section 2, the status of property as a homestead shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and

occupied as a homestead by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. Beginning in 1995, 1 copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4). Beginning in 1995, the affidavit shall require the owner claiming the exemption to indicate if that owner has claimed another exemption on property in this state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 homestead exemption.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under subsection (6), the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of Act No. 451 of the Public Acts of 1976 as provided in subsection (1) through the 1998 tax year or until December 31 of the year in which the property is transferred or the owner rescinds the claim for exemption. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury. An owner is required to file a new claim for exemption on the same property in 1999 and every 4 years after 1999.

(5) Not more than 90 days after exempted property is no longer used as a homestead by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the homestead of the owner claiming the exemption, effective for taxes levied after 1994 the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the department of treasury within 35 days after the date of the notice. The denial shall be made on a form prescribed by the department of treasury. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption, for taxes levied in 1994 the assessor may send a recommendation for denial for any affidavit that is forwarded to the department of treasury stating the reasons for the recommendation. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption and has not denied the claim, for taxes levied after 1994 the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(7) The department of treasury shall determine if the property is the homestead of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the homestead of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of Act No. 122 of the Public Acts of 1941, being section 205.21 of the Michigan Compiled Laws. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and either correct the current tax roll to reflect, or place on the next tax roll, previously unpaid taxes with interest and penalties computed based on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption. Interest and penalties shall not be assessed for any period before February 14, 1995. However, if the property has been transferred to a bona fide purchaser, the taxes, interest, and penalties shall not be billed on the next tax statement by the local tax collecting unit to the bona fide purchaser, and the local tax collecting unit shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the homestead property tax exemption for the tax and interest plus penalty, if any, as for unpaid taxes provided under Act No. 122 of the Public Acts of 1941 and shall deposit any tax, interest, or penalty collected into the state school aid fund.

(8) An owner may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An assessor may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision if the assessor denied the exemption under subsection (6), or, for taxes levied in 1994 only, the assessor forwarded a

recommendation for denial to the department of treasury under subsection (6). An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties except as provided in subsection (7), if any, shall accrue and be computed based on the interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(9) An affidavit filed by an owner for a homestead shall rescind all previous exemptions filed by that owner for any other homestead. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit. Upon receipt of notice that an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit or rescission form is filed with the local tax collecting unit.

(10) If the homestead is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total state equalized valuation used as the homestead of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a homestead, the owner shall claim an exemption for only that portion of the total state equalized valuation used as the homestead of that owner in a manner prescribed by the department of treasury.

(11) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(12) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located.

(13) An owner who owned and occupied a homestead on May 1 in any year for which a homestead property tax exemption affidavit was claimed to have been filed and for which the exemption was not on the tax roll may file an appeal with the July board of review or, if there is not a summer levy of school operating taxes, with the December board of review. In 1994 an owner of property that is a homestead on May 1 for which the local tax collecting unit has not received a claim of exemption may claim an exemption for 1994 in person or by mail at the July board of review or the December board of review.

(14) In 1994 only, an owner who acquires a homestead after April 30 for which an affidavit was not filed in 1994, may file an affidavit as provided in subsection (2) not later than October 1, 1994. Upon receipt, the assessor shall exempt the property from 50% of the number of mills levied in 1994 under section 1211 of Act No. 451 of the Public Acts of 1976 from which homesteads are exempt, not to exceed 50% of the total number of mills from which homesteads are exempt in 1994, on the December tax roll. If there is not a December levy of the tax under section 1211 of Act No. 451 of the Public Acts of 1976, the owner may appear in person or by mail before the December board of review and obtain a rebate as provided in section 53b of 50% of the number of mills levied in 1994 under section 1211 of Act No. 451 of the Public Acts of 1976 from which homesteads are exempt, not to exceed 50% of the total number of mills from which homesteads are exempt in 1994. This subsection does not apply unless the 1994 assessment of the property is based on the valuation of a homestead or a portion of a structure that has become a homestead. An affidavit filed under this subsection is subject to all the provisions of this section.

Sec. 7dd. As used in sections 7cc and 7ee:

(a) "Homestead" means that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit. Homestead also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied as a principal residence by the owner. Contiguity is not broken by a road or a right-of-way. Homestead also includes any portion of a principal residence of an owner that is rented or leased to another person as a residence as long as that portion of the principal residence that is rented or leased is less than 50% of the total square footage of living space in that principal residence. Homestead also includes a life care facility registered under the living care disclosure act, Act No. 440 of the Public Acts of 1976, being sections 554.801 to 554.844 of the Michigan Compiled Laws. Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders.

(b) "Owner" means a person who is 1 of the following:

(i) A person who owns property or who is purchasing property under a land contract.

(ii) A person who is a partial owner of property.

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(iv) A person who owns or is purchasing a dwelling on leased land.

(v) A person holding a life lease in property previously sold or transferred to another.

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust.

(c) "Person", for purposes of defining owner as used in section 7cc, means an individual and for purposes of defining owner as used in section 7ee means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(d) "Principal residence" means the 1 place where a person has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

(e) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 2 of the farmland and open space preservation act, Act No. 116 of the Public Acts of 1974, being section 554.702 of the Michigan Compiled Laws. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1. However, if an affidavit claiming a homestead exemption on qualified agricultural property not classified as agricultural was not filed by May 1 in 1994, the owner shall file an affidavit under this section by June 1, 1994.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) through the 1998 tax year or until December 31 of the year in which the owner rescinds the exemption. An owner is required to file a new claim for exemption on the same property in 1999 and every 4 years after 1999 for property not classified as agricultural or as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) An owner of property that is qualified agricultural property on May 1 for which an affidavit under this section was claimed to be filed and the exemption was not on the tax roll, or for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review. In 1994 an owner of property that is qualified agricultural property on June 1 for which the local tax collecting unit has not received a claim of exemption may claim an exemption for 1994 in person or by mail at the July board of review or the December board of review.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property, effective for taxes levied after 1994, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

Sec. 24c. (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first class mail of an increase in the assessment for the year. The notice shall specify each parcel of property, the assessed valuation for the year and the immediately preceding year, and the time and place of the meeting of the board of review. The notice also may specify the net change in assessment.

(2) Except as provided by subsection (4), the notice shall include, in addition to the information required by subsection (1), all of the following:

(a) The state equalized valuation for the immediately preceding year.

(b) The tentative equalized valuation for the year.

(c) The net change between the tentative equalized valuation for the year and the state equalized valuation for the previous year.

(d) The classification of the property as defined by section 34c.

(3) When required by the income tax act of 1967, Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.532 of the Michigan Compiled Laws, the assessment notice shall include or be accompanied by information or forms prescribed by Act No. 281 of the Public Acts of 1967, as amended.

(4) The following apply to all assessment notices:

(a) If the tentative equalization multiplier is 1.0 for all classes of property, the assessment notice may exclude the information required by subsection (2)(b) and (c), and instead specify the assessed valuation for the year as both the assessed valuation and tentative equalized valuation for the year.

(b) If the equalization multiplier for the immediately preceding year was 1.0 for all classes of property, the assessment notice may exclude the information required by subsection (2)(a) and instead specify the assessed valuation for the immediately preceding year as both the assessed valuation and state equalized valuation of the property for the immediately preceding year.

(5) The assessment notice shall be addressed to the owner according to the records of the assessor and mailed not less than 10 days before the meeting of the board of review. The failure to send or receive an assessment notice does not invalidate an assessment roll or an assessment on that property.

(6) The tentative equalized valuation shall be calculated by multiplying the assessment by the tentative equalized valuation multiplier. If the assessor has made assessment adjustments that would have changed the tentative multiplier, the assessor may recalculate the multiplier for use in the notice.

(7) The state tax commission shall prepare a model assessment notice form that shall be made available to local units of government.

(8) Beginning in 1995, the assessment notice under subsection (1) shall include the following statement:

"If you purchased your homestead after May 1 last year, to claim the homestead exemption, if you have not already done so, you are required to file an affidavit before May 1."

Sec. 43c. Notwithstanding section 43, if there is not an agreement for alternative schedules for delivering interest earned, the local tax collecting unit shall retain interest earned on the collections of the state education tax levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, while in the possession of the local tax collecting unit.

Sec. 53b. (1) If there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, the error or mutual mistake shall be verified by the local assessing officer, and approved by the board of review at a meeting held for that purpose on Tuesday following the second Monday in December, and for summer property taxes, on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the errors or mutual mistake with the proper officials who are involved with the assessment figures, rate of taxation, or mathematical computation and all related official records shall be corrected. If the error or mutual mistake results in an overpayment or underpayment, the rebate shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A correction under this subsection may be made in the year in which the error was made or in the following year only.

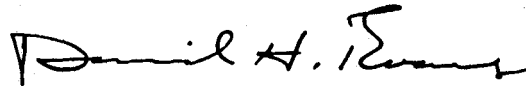
(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7cc and 7ee. If an appeal under section 7cc or 7ee results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). A correction under this subsection shall be made only for the year in which the appeal is made. If the board of review grants an exemption or provides a rebate for property as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc or 7ee and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section, the provisions of section 7cc(6) through (8) apply. If an exemption under section 7cc is not granted by the board of review under this section, the owner may appeal that decision to the department of treasury and the appeal shall be conducted as provided in section 7cc(7).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties, if any, shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

This act is ordered to take immediate effect.



Co-Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.



JOHN ENGLER, Governor
DOUGLAS B. ROBERTS, State Treasurer

STATE OF MICHIGAN

DEPARTMENT OF TREASURY

TREASURY BUILDING

LANSING, MICHIGAN 48922

Homestead Property Tax Exemption Affidavit Questions and Answers Volume 3

June 1994

This volume consolidates all previous volumes, amends outdated information and includes new information. It replaces Volumes 1 and 2.

Filing Deadline

This information replaces Vol. 1 #12 - 15 and Vol. 2 #2, 7 and 9 - 12.

1. What is the deadline for filing a homestead exemption affidavit?

The filing deadline is May 1 of each year. Verified affidavits received by May 1, 1994 are in effect for the 1994 - 1998 tax years, unless you change principal residences.

2. Is an affidavit filed on May 1 considered timely?

Yes. Affidavits delivered to the local unit of government on May 1 or postmarked May 1 are considered timely. If May 1 falls on a weekend or holiday, the filing deadline becomes the next business day (e.g. in 1994, the actual filing date became May 2 because May 1 was a Sunday).

3. If I was eligible for the exemption on May 1, 1994 but did not file timely, may I claim my exemption?

Yes. You may claim an exemption in person or by mail at the July or December board of review. Contact your local government for more information.

4. What year's taxes will be affected by the homestead exemption?

Homestead exemptions filed by May 1, 1994 will reduce school taxes for the 1994 - 1998 tax years. All taxpayers must file a new affidavit by May 1, 1999 regardless of whether they change residences.

5. I moved to a different home before the May 1 filing deadline. May I claim my new home?

Yes. If you buy a new home and move into it before the filing deadline, you may claim an exemption on the new home before the filing date. New residences may be claimed by filing a *Homestead Exemption Update* that will be made available at closing.

6. I moved to a different home after the May 1 filing deadline. May I claim my new home?

No. Since you did not own and occupy the home before the filing date, you may not file a claim. However, the previous owner may have claimed the property and that exemption remains in effect until January 1. You may file a claim for your new home before May 1 of the following year by filing a *Homestead Exemption Update* that will be made available at closing.

EXCEPTION: FOR 1994 ONLY. If you buy an existing home after May 1, 1994 and occupy it before October 1, 1994, you may file an affidavit for that home by October 1, 1994 and receive a reduced millage for your December taxes. You will pay the 6-mill state education tax plus half of your school district's additional non-homestead mills. For example, if your local school district has an 18-mill non-homestead rate and no mills on homesteads, you will pay a total of 15 mills: 9 non-homestead mills plus the 6-mill state education tax. This applies to existing homes and to homes that were under construction in 1993.

7. I began construction on a new home in 1994 but did not occupy it until after May 1. May I claim an exemption for the current year's taxes?

No. Since you did not own and occupy the home before the filing date, you may not file a claim. For newly-built homes, the property is taxed based on its value on December 31. If there was no structure on the land on December 31, you will pay the higher non-homestead rate on the value of vacant land only until December 31 of the current year. File a new claim before May 1 of the following year for the next year's taxes.

Rescinding an Exemption

8. When I claim an exemption on my new residence, what happens to the exemption on my old residence?

The exemption on your old home will remain in effect until December 31. The new owner must claim the exemption for 1995 taxes.

9. What happens when a lender has foreclosed on a mortgage and the home is now vacant?

The lender must rescind the homestead exemption. The Department of Treasury is preparing a form for this purpose.

10. I am moving into a new home and converting my current home to a rental property. Do I have to rescind the exemption on my current home?

Yes, within 90 days of moving. The exemption will remain in place until December 31 and the Department of Treasury will notify the local unit to change the tax records.

Residency

11. Who is a Michigan resident?

You are a Michigan resident if Michigan is your permanent home. Your permanent home is the place you intend to return to whenever you go away. A temporary absence from Michigan, such as spending the winter in a southern state, does not make you a part-year resident.

12. What determines principal residence?

The tests to determine principal residence include such things as: where you are registered to vote; the address on your driver license; where your children attend school; and the address from which you file your tax returns.

13. I own two homes in Michigan. For which home do I claim the exemption?

You must claim the exemption for the home you occupy as your principal residence.

14. I have a home in Michigan and in another state. May I claim an exemption on my Michigan home?

You must be a Michigan resident to claim this exemption. You may claim your Michigan home only if you own it and occupy it as your principal residence. You may not have more than one principal residence.

15. I own property in Michigan, but moved to another state and established residency there. May I claim my Michigan home?

Only Michigan residents are eligible for this exemption. If you wish to re-establish Michigan residency in order to claim this exemption, you must do so before the filing deadline. As a Michigan resident, you may be liable for Michigan income taxes. Re-establishing your residency would include such things as registering to vote in the township or city where your home is located; registering your vehicle in Michigan; and getting a Michigan driver license.

16. I temporarily work and live outside Michigan (e.g teaching sabbatical, military assignment, etc.), but remain a Michigan resident and own a home in Michigan. May I claim an exemption on my Michigan home?

Yes, unless you rent the home to another person.

Ownership

17. May renters file for this exemption?

No. You must own your principal residence to claim an exemption on it.

18. My children co-own my home. Do they also have to sign the affidavit even though they don't live with me?

No. Only co-owners who occupy the home as their principal residence must be listed on the affidavit and sign it. If your children also own and occupy their own home they may file a claim for their principal residence.

19. My children own my home, but I hold a life estate. May I claim the exemption?

Yes. Fill out the affidavit using your name, address, Social Security number and signature. Your children should not sign the affidavit.

20. I own my home but rent an apartment closer to my work. My apartment address is where I'm registered to vote and is the address on my driver license. May I still claim my home?

No. Your apartment is your principal residence, since you vote in the township where the apartment is located and the apartment is the address on your driver license.

Replaces Vol. 1 #9.

21. I have purchased my principal residence on a land contract. May I claim the exemption?

Yes. Fill out the affidavit with your name, Social Security number and signature, not the name of the land contract vendor.

22. I am leasing my home with an option to buy. May I claim my home?

No. Leasing with an option to buy is considered a rental arrangement, therefore the home is ineligible. Once you exercise the option to buy, you may claim an exemption.

23. I am a senior citizen living in my home. I sold my home to my daughter and did not retain a life estate, but we have a verbal agreement that I may remain here until I choose to leave or die. May I claim my home?

The law allows the claim to be filed only by an owner who occupies the property. You may claim your home only if you and your daughter sign a written agreement (which you can write yourselves) by the filing deadline, specifying that you may remain in the home until you choose to leave or until you die. This agreement should be notarized and recorded with the Register of Deeds.

24. My sister and I each own a separate home on the same parcel of property, which we co-own. May we claim an exemption for both homes?

Yes.

Qualified Property

25. I have moved several times in the last year. Which home do I claim?

Homeowners may claim the exemption on the property they own and occupy as their principal residence on the date they file the affidavit. Formerly, homeowners were directed to use occupancy as of December 31, 1993 rather than the date the affidavit is filed.

26. My home is on a 40-acre parcel classified residential. Are all 40 acres eligible for the exemption?

Yes. Your homestead includes all of the parcel that your home sits on, unless you rent part of the land to another person.

27. My home is on a 40-acre residential parcel. I rent 35 acres to another person. Does the exemption apply to all 40 acres?

No. The exemption applies only to the home and the 5 acres not rented out. Enter in the box in Section 3 of the affidavit the percentage of total value represented by the home and the 5 acres not rented out and explain with a note on the form.

28. I have a rural home on a 20-acre parcel. My home is classified as residential property. I also own the adjacent 80-acre residential parcel. What may I claim?

You may claim an exemption on both parcels since the 80-acre parcel is classified as residential property and adjacent and contiguous to the parcel on which your home is located.

29. I own the lot adjacent and contiguous to my home, and it has a different property identification number than the parcel on which my homestead is located. May I also claim an exemption on this property?

You may claim an exemption on this property as long as the property claimed is adjacent or contiguous to your home. A road does not break contiguity. File an affidavit for each parcel.

30. I own two adjoining parcels and my house is built on both parcels. May I claim both parcels?

Yes.

31. I own the parcel adjacent to my home. There is a home on the adjacent parcel that I rent out. May I claim an exemption on this parcel?

No. The adjacent parcel is eligible only if it is vacant or has on it a garage or other structure that is part of your home.

32. I own and occupy my own home and am filing an exemption claim for that home. I also own a contiguous piece of property with a home on it that my children occupy. May I also claim that home?

No. Only your principal residence may be claimed even if your children do not pay rent.

33. My spouse and I each own and occupy separate homes. We file our tax return as "married filing separately." May we each claim our home?

Yes. Spouses who maintain separate principal residences may each claim his or her homestead unless they filed a joint income tax return.

Replaces Vol. 1 #6 and Vol. 2 #15.

34. My home is in a licensed trailer park. My garage and shed are taxable. May I claim this exemption for the garage and shed?

Yes.

35. I live in a nursing home, but still maintain a home. May I claim an exemption on the home I own?

Yes, unless the home is occupied by someone other than your spouse or dependents.

36. Is property classified as timber-cutover eligible for this exemption?

No.

37. I own a condominium and a boat slip which has a separate PIN. The common area for my condo is adjacent to the common area of my boat slip. May I claim an exemption for the boat slip?

No, since you do not occupy the common areas of your condominium.

Social Security Numbers

38. May the State of Michigan require my Social Security number? Will it be kept confidential?

The Michigan Department of Treasury has the legal authority to use Social Security numbers for tax purposes. Federal law prohibits the State or local governments from releasing a Social Security number to unauthorized persons. Local governments may not use Social Security numbers for any purpose other than to administer the homestead exemption.

39. Will I receive the homestead exemption if I do not enter my Social Security number?

If you do not enter your Social Security number, the Department of Treasury may ask for further verification of your homestead exemption claim.

Appeals

40. If I filed timely but my local government lost my form, can I appeal?

Yes. You may appeal to the local board of review. For 1994, you may appeal to either the July or December board of review. Starting in 1995, if summer taxes are levied you may appeal only to the July board of review. Contact your local government for more information.

41. If my exemption is denied, can I appeal the decision?

Yes. If the Department of Treasury denies your homestead exemption, you may request an informal hearing with the Michigan Department of Treasury within 30 days of the denial. If Treasury denies your appeal, you may appeal Treasury's decision to the Michigan Tax Tribunal within 35 days.

Multi-Purpose Property

42. I live in part of my home and operate a business in another part. May I claim an exemption?

Yes, but only on the portion of the property that is your home. Complete Section 3 of the affidavit. You may claim the partial exemption even if the property is classified as commercial.

43. I operate a bed and breakfast in my home. May I claim an exemption?

Yes, but only on the portion of the property that is used as your homestead. Complete Section 3 of the affidavit.

44. I provide child care in my home. Do I need to complete Section 3 of the affidavit?

No. You may claim all of your home as a homestead.

45. I rent a room in my home to a boarder. May I still claim an exemption?

Yes. If more than 50 percent of your home is used as your principal residence, you may claim an exemption for your entire home. If you use 50 percent or less of your home as a principal residence, enter the percentage of your home that you occupy in the box in Section 3 of the affidavit.

Replaces Vol. 1, #30.

46. My mother lives in my home in a separate area. She does not pay rent. Is her living area part of my homestead?

If your mother's area has a separate entrance and does not have an adjoining entrance to your living area, then her living area is not part of your homestead and is not eligible for this exemption. If not, question 45 applies.

Replaces Vol. 1, #31.

47. I own a duplex. I live in one unit. My father lives in the other unit, but does not pay rent. May I claim an exemption on both units?

You may claim an exemption only on the unit you occupy as your principal residence even if there is an adjoining entrance between the units. Complete Section 3 of the affidavit.

48. I own an 8-unit apartment building classified as commercial property and one unit is my principal residence. May I claim an exemption on my unit?

Yes. Complete Section 3 of the affidavit.

Cooperative Housing Corporations

49. I am a shareholder in a cooperative housing corporation. May I claim the exemption?

The corporation should file a claim for the entire cooperative.

Estates and Trusts

50. If the home has been placed in a grantor trust, who should sign the affidavit?

The grantor is considered the owner and should sign the affidavit.

51. What if the grantor is unable to sign the affidavit?

If the grantor is unable to sign the affidavit, then the trustee may sign on the grantor's behalf. Complete the form using the grantor's name and Social Security number.

52. The owner of the homestead died before the form could be filed but had a will specifying that the person who was occupying the homestead was to inherit it. May the beneficiary claim an exemption?

Yes, if the beneficiary occupies the property by May 1. For purposes of the homestead exemption, a beneficiary is considered an owner.

53. The owner of the homestead died before the filing date without a will, but had only one heir who occupies the home as his or her principal residence. May the beneficiary claim an exemption?

Yes, see question 52.

54. What if the owner of the homestead died after December 31, 1993 and the personal representative filed a claim for the exemption on the decedent's behalf before the law changed (March 1)?

Affidavits filed properly under the old law will be honored.

55. The owner of the homestead died before the filing date. Before death, the owner placed the property in a revocable trust which specified that the surviving spouse was a life beneficiary. The surviving spouse occupies the home as a principal residence. Can he or she claim the exemption?

The life beneficiary is considered the owner of the home and is entitled to claim a homestead exemption on the residence.

56. The surviving spouse is the life beneficiary of a decedent who died before the filing date. The home was transferred to the trust by the decedent before death. The surviving spouse lives in another state and one of the (adult) children of the decedent who lived with the decedent continues to occupy the home. May the occupant claim the exemption?

Since the owner of the home, the life beneficiary, does not occupy the home as a principal residence, neither the owner nor the occupant may claim an exemption.

57. The trust agreement gives the trustee discretion to distribute the home to any of the beneficiaries or to sell the home and distribute the proceeds to the beneficiaries. One of the beneficiaries occupies the home as a principal residence and continues to live there while the home is being sold by the trust. May the beneficiary/occupant claim an exemption?

Yes, see question 52.

58. The decedent co-owned the home, but the decedent's interest was placed in a revocable trust, which is now irrevocable. The surviving joint owner continues to occupy the home, but is not one of the decedent's beneficiaries. May the surviving joint owner file an exemption?

Since the surviving joint owner co-owns and occupies the property, he or she may claim an exemption.

59. A trust was created by a decedent's death before the filing deadline. Three properties were transferred to the trust. Two of the children are life beneficiaries and occupy the homes they inherited. The third home is unoccupied and is being sold. May the trustee file a claim for the home which is for sale on behalf of the trust?

No, because the trust cannot occupy the home as a principal residence. The life beneficiaries may claim their respective homesteads which they occupy as their principal residences.

60. I have placed my property in an irrevocable, "qualified personal residence trust." The property will be my children's in 20 years. The property is my principal residence. May I claim a homestead exemption on this property?

The IRS allows individuals to place their personal residences in a qualified personal residence trust. The individual (grantor) must continue to occupy the property as a personal residence. The IRS recognizes the grantor and spouse as the owner and only the grantor, spouse and dependents may occupy the home. If the house is your principal residence on the date the affidavit is filed, you may claim an exemption.

Other Questions

61. How will the homestead exemption affect my Homestead Property Tax Credit Claim?

This program is in addition to the homestead property tax credit. You may still file a homestead credit claim with your State income tax return. Do not file the homestead exemption affidavit with your State income tax return. It must be filed with your township or city assessor so the property tax rolls can be adjusted properly.

62. Is there an income limit for this exemption?

No.

Agricultural Property

This information replaces Vol. 1, #35 - 45.

P.A. 136 of 1994 created a separate exemption for agricultural property that is administered by the local units of government under the General Property Tax Act. The Department of Treasury is not required to verify these claims, so the forms do not need to be forwarded to us.

63. My property is classified agricultural. Do I have to file a form?

No, unless your local assessor requests it to help determine the eligibility of the property

64. My property is not classified as agricultural, but is used primarily for an agricultural purpose. Can I claim an exemption? Do I have to file a form?

Yes. Property that is not classified as agricultural qualifies for this exemption if more than 50 percent of the acreage is devoted to an agricultural use. You must file a farmland exemption claim.

65. What is the proper form for filing an agricultural claim?

File the *Claim for Farmland Exemption from Some School Operating Taxes* (form T-1063).

66. What is the deadline for filing?

The filing deadline is June 1, 1994. Affidavits received by June 1, 1994 are in effect for the 1994 - 1998 tax years, unless the property is sold. The filing deadline for subsequent years is May 1.

67. What types of agricultural property and uses qualify?

Vacant land and farm-related structures qualify. This does not include buildings used for commercial storage, commercial processing, commercial distribution, commercial marketing, commercial shipping, or any other commercial or industrial use.

Residences qualify if they are occupied by a person who is employed in or actively involved in the farming operation and who has not filed a *Homestead Exemption Affidavit* for another residence.

68. What is considered agricultural use?

Agricultural use means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains and feed crops; dairy and dairy products; livestock, including breeding and grazing; fruits; vegetables; Christmas trees; and other similar uses and activities.

69. Part of my property is used for commercial purposes. What portion of my property may I claim?

You may claim an exemption only for the portion of taxes related to the property used for agricultural purposes. To compute this, divide the value of qualified agricultural property by the value of your total property.

70. I own qualified property that is not classified agricultural but did not file a claim before June 1, 1994. May I claim my property?

FOR 1994 ONLY. You may claim an exemption in person or by mail by at the July or December board of review and receive a reduced millage for your December taxes.